

REMARKS

This paper responds to the Office Action mailed October 19, 2005. In the Office Action, Claims 1-6, 9, 11-16, 19, 21-24, 27, and 29-35 were rejected under 35 U.S.C. § 102(e) as being anticipated by Kinjo (U.S. Patent Application Publication No. 2003/0063575). Claims 7, 17, and 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kinjo in view of Lo et al (U.S. Patent Application Publication No. 2002/0007331). Claims 8, 18, and 26 were rejected as being unpatentable over Kinjo as applied to Claims 1, 12, and 22, in view of Clendinning et al (U.S. Patent Application Publication No. 2002/0107861). Claims 10, 20, and 28 were rejected as being unpatentable over Kinjo as applied to Claims 1, 12, and 22, in view of Meyerson et al (U.S. Patent No. 5,818,028). Applicant has carefully considered the cited references and the comments provided in the Office Action, and believes the amended claims are patentably defined over the cited art. Pursuant to 37 C.F.R. § 1.111, applicant requests reconsideration and allowance of this application.

Claims 1-35 are pending in the application. Claims 1, 12, 22, and 30 are the independent claims. Applicant's counsel thanks Examiner Serrao for the time and consideration he extended in a telephonic interview conducted April 7, 2006. In the interview, Examiner Serrao and applicant's counsel discussed the patentability of the independent claims, as amended herein, over the disclosure of Kinjo. Additionally, the patentability of amended Claims 7, 17, and 25 over Kinjo and Lo was discussed. The remarks provided below substantially embody the remarks made during the interview. A preliminary agreement was reached that the amended claims define the invention over the cited art. Applicant understands that Examiner Serrao will conduct an updated search and consider additional references to be submitted by the applicant prior to making a determination of allowance.

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Before discussing in detail the reasons why Claims 1-35 are allowable over the prior art, a brief discussion of certain embodiments disclosed in the present application is provided. This discussion of embodiments is not intended to limit the interpretation of the claims. Instead, this discussion is provided to help the U.S. Patent and Trademark Office (hereinafter "the Office") better understand and appreciate important aspects of the disclosure discussed thereafter.

The Present Application

The present application describes technology that provides useful competitive purchasing information to consumers while remaining present at a retail location.

In one exemplary embodiment, a user is able to obtain information associated with a particular item, *e.g.*, price, availability, reviews, etc., by using a portable imaging device, such as a digital camera, mobile telephone, portable computing device (*e.g.*, PDA), etc., that has a component capable of capturing an image. A user obtains an image using an imaging device, wherein the image contains identifying data associated with an item as provided by a first entity (*e.g.*, a brick-and-mortar retail store). The identifying data for the item is extracted from the image. Item information, such as the item's price, availability, etc., are obtained from a resource by a second entity (*e.g.*, an online retail store) using the identifying data. The second entity is different than the first entity and may be situated at a location remote from the first entity. The item information is then communicated from the second entity back to the imaging device for communication through an output of the imaging device, such as a display or a speaker, while the imaging device (and user) remain present at the location of the first entity.

In accordance with another aspect, data received from a number of different portable imaging devices is collected and processed to facilitate sales forecasting analysis. Data is collected when users of portable imaging devices submit an image requesting information for an item. The collected data may be used to generate sales forecasting reports to determine market

demand for various items. In one example, a consumer may use the camera of a mobile phone to capture an image of a barcode or other identifying data associated with a desired item. The image is then communicated to a server, where the identifying data is extracted from the captured image to identify the selected item. The number of times that a picture of a particular item is taken is stored in a database and used to generate sales forecast reports. Such reports may assist merchants in accurately forecasting future purchasing activity for products or other commerce items.

Claims 1-11 are Patentable Over the Prior Art

Claim 1

Turning now to the claims in the present application, applicant submits that Claims 1-11 define subject matter that is patentable over the prior art. For the convenience of the Examiner, amended Claim 1 is repeated as follows:

1. A method for communicating information regarding a selected item to a user present at a location of a first retail entity, the method comprising:
 - receiving an image from an imaging device, wherein the image contains identifying data associated with the selected item as provided by the first retail entity;
 - extracting the identifying data from the image;
 - using the identifying data to obtain item information associated with the selected item from a second retail entity that is different than the first retail entity;
 - and
 - communicating the item information from the second retail entity to the imaging device for delivery to the user while the user remains present at the location of the first retail entity, wherein the item information enables the user to

request the item from the second retail entity while remaining at the location of the first retail entity.

35 U.S.C. § 102(e)

Kinjo is directed to an order processing apparatus for ordering an object featured in a displayed image. For instance, a consumer watching television may photograph an object displayed on the television screen using a portable device. The image, together with information representing an order for the object, is sent from the portable device to the order processing apparatus. The object is identified by comparing the sent image with an original image as broadcast and the order for the object is processed. (See the Abstract and paragraphs [0009]-[0010] in Kinjo).

In contrast to Kinjo as discussed above, Claim 1 of the present application is directed to a method in which a user present at a location of a first retail entity communicates an image relating to a selected item to a second retail entity to obtain item information for the selected item. The second retail entity is different than the first retail entity. Further, the item information enables the user to request the item from the second retail entity while remaining at the location of the first retail entity. This method is not taught or suggested by Kinjo or any of the other references cited in the Office Action.

To the extent Kinjo describes a customer photographing an object displayed at a store (see, e.g., paragraphs [0132]-[0134] of Kinjo), the order processing apparatus identifies the store and communicates with the store's computer server to process the order at the store. "Information regarding the photographed place" is included with the image data that is processed by the order processing apparatus. (Kinjo, paragraph [0133]). The place information can be the name of the store or it may be GPS data identifying the store. "The order processing apparatus 12 then communicates with the identified store's computer server and can confirm the

existence of the article at said store." (Kinjo, paragraph [0134]). To the extent article information is obtained from the article's manufacturer, the article information is used simply to verify the article photographed by the customer. Once verified, the article can be ordered by the customer from the store in which the customer took the photograph.

Kinjo does not suggest obtaining "item information associated with the selected item from a second retail entity that is different than the first retail entity" and "communicating the item information from the second retail entity to the imaging device for delivery to the user while the user remains present at the location of the first retail entity, wherein the item information enables the user to request the item from the second retail entity while remaining at the location of the first retail entity." Accordingly, Kinjo does not anticipate Claim 1 of the present application.

35 U.S.C. § 112, Second Paragraph

As to the rejection of Claim 1 under 35 U.S.C. 112, second paragraph, applicant has amended Claim 1, line 2, to substitute "a location" for the previous reference to "the location", which corrects the antecedent basis for this claim element. In view of the foregoing, Claim 1 should be allowed.

Dependent Claims 2-11

Claims 2-11 are also allowable for their dependence on allowable Claim 1 and for the additional subject matter they recite. For example, Claim 3 recites the method of Claim 1, "further comprising outputting the item information on an audio speaker of the imaging device when the item information is communicated from the second retail entity to the imaging device." While Kinjo identifies a device having an audio speaker, Kinjo does not teach the device as being configured to output "item information ... communicated from the second retail entity," as claimed.

As another example, Claim 7 recites the method of Claim 1, wherein the method further comprises "compiling historical data based on a number of times an image has been received from different imaging devices, said image containing identifying data associated with the selected item; using the historical data to estimate consumer demand for the selected item; and generating a report that forecasts future purchasing activity for the selected item based on the estimated consumer demand." The Office Action rejected Claim 7 as being unpatentable over a combination of Kinjo and Lo. Applicant does not agree that Lo can be combined with Kinjo, as Lo is concerned with technical analysis of securities trading, which is not analogous nor applicable to consumer purchasing of items at retail entities. Moreover, the disclosure of Lo does not overcome the above-noted deficiencies of Kinjo. Even if combined, Kinjo and Lo do not teach all of the elements recited in amended Claim 7, and accordingly do not support a *prima facie* obviousness rejection of Claim 7. The rejection should be withdrawn.

With respect to Claim 8, applicant has considered the disclosure of Clendinning and finds that it does not overcome the deficiencies of Kinjo discussed above with respect to Claim 1. Also, with respect to Claim 10, applicant has considered the disclosure of Meyerson and finds that it does not overcome the deficiencies of Kinjo discussed above.

In view of the foregoing, Claims 2-11 should be allowed.

Claims 12-21 are Patentable Over the Prior Art

Applicant submits that Claims 12-21 define subject matter that is patentable over the prior art. For the convenience of the Examiner, amended Claim 12 is repeated as follows:

12. A system for communicating information regarding a selected item to a user present at a location of a first retail entity, wherein the system comprises a server operated by a second retail entity that is different than the first retail entity, the server being in communication with an imaging device that is

configured to capture an image of identifying data associated with the selected item, the server comprising:

a subsystem configured to receive an image from the imaging device, wherein the image contains identifying data associated with the selected item as provided by the first retail entity;

a subsystem configured to extract the identifying data from the image;

a subsystem configured to use the identifying data to obtain item information associated with the selected item, wherein the item information is obtained from at least one resource; and

a subsystem configured to communicate the item information to the imaging device for delivery to the user while the user remains present at the location of the first retail entity,

wherein the item information enables the user to request the item from the second retail entity while remaining at the location of the first retail entity.

35 U.S.C. § 102(e)

The Office Action did not present separate comments in support of the rejection of Claims 12-21, but instead relied upon the reasoning advanced for rejecting Claims 1-11. As discussed above, amended Claims 1 is patentably distinguished over the prior art. For similar reasons, Claim 12 is also in allowable condition.

Additionally, Claims 13-21, which depend from Claim 12, present subject matter that is not taught or suggested in the prior art. For example, Claim 13 recites the system of Claim 12, "wherein the resource is a Web service storing information related to the selected item." Applicant submits that Kinjo does not disclose a resource being a Web service that stores

information related to the selected item, notwithstanding the citation of Kinjo at paragraph [0124] as set forth in the Office Action.

Given that Kinjo does not anticipate each and every element of Claims 12-16, 19, and 21, Kinjo cannot support a *prima facie* rejection of the claims under 35 U.S.C. § 102(e). Furthermore, for the reasons discussed above, a combination of Kinjo and Lo does not teach or suggest all of the elements of Claim 17, and thus does not support a *prima facie* rejection of the claim under 35 U.S.C. § 103(a). Additionally, Claim 18 is patentable over the combination of Kinjo and Clendinning for the same reasons discussed above with respect to Claim 8, and Claim 20 is patentable over the combination of Kinjo and Meyerson for the same reasons discussed above with respect to Claim 10.

35 U.S.C. § 112, Second Paragraph

As to the rejection of Claim 12 under 35 U.S.C. 112, second paragraph, applicant has amended line 2 of Claim 12 to address the issue of antecedent basis. Applicant has substituted "a location" for the previous reference to "the location", which should resolve the matter.

In view of the foregoing, the rejection of the Claims 12-21 should be withdrawn and the claims should be allowed.

Claims 22-29 are Patentable Over the Prior Art

Applicant submits that Claims 22-29 define subject matter that is patentable over the prior art. For the convenience of the Examiner, amended Claim 22 is repeated as follows:

22. A computer-readable medium having a computer-executable component for communicating item information for a selected item, wherein the computer-executable component communicates the item information by:

receiving an image from an imaging device being operated by a user present at a location of a first retail entity, said image containing identifying data

associated with the selected item made available at the location of the first retail entity;

extracting the identifying data from the image;

using the identifying data to obtain item information associated with the selected item; and

communicating the item information to the imaging device while the user remains present at the location of the first retail entity,

wherein the item information enables the user to request the item from a second retail entity while the user remains at the location of the first retail entity.

35 U.S.C. § 102(e)

As with Claims 12-21 above, the Office Action did not separately argue the rejection of Claims 22-28, but instead relied upon reasoning presented for rejecting Claims 1-11. As discussed above, amended Claims 1-11 are patentably distinguished over the prior art. Since Kinjo does not anticipate each and every element of Claims 22-24, 27, and 29, Kinjo cannot support a *prima facie* rejection of the claims under 35 U.S.C. § 102(e). Furthermore, for the reasons discussed above, a combination of Kinjo and Lo does not teach or suggest all of the elements of Claim 25, and thus does not support a *prima facie* obviousness rejection of the claim. Claim 26 is patentable over the combination of Kinjo and Clendinning for the same reasons discussed above with respect to Claim 8, and Claim 28 is patentable over the combination of Kinjo and Meyerson for the same reasons discussed above with respect to Claim 10.

Claim 29 was rejected as being anticipated by Kinjo, but again, as noted above, Kinjo fails to disclose each and every element of Claim 22 on which Claim 29 is based. Accordingly, Claim 29 is patentable over Kinjo.

The rejection of the Claims 22-29 should be withdrawn and the claims should be allowed.

Claims 30-35 are Patentable Over the Prior Art

Lastly, applicant submits that Claims 30-35 define subject matter that is patentable over the prior art. For the convenience of the Examiner, amended Claim 30 is repeated as follows:

30. An integrated portable apparatus for obtaining item information for a selected item at a location of a first retail entity, the apparatus comprising:

an input device for capturing an image of the selected item that contains identifying data associated with the selected item as provided by the first retail entity;

an output device for outputting item information for the selected item as obtained from a second retail entity that is different than the first retail entity;

a storage medium for storing said identifying data and program instructions for processing the image; and

a processing unit communicatively coupled to the input device, the output device, and the storage medium, for executing the program instructions that process the image by

obtaining the item information for the selected item by communicating the image containing the identifying data to the second retail entity; and

outputting on the output device the item information obtained from the second retail entity, wherein the output device communicates the item information to a user while the user remains at the location of the first retail entity, and wherein the item information enables the user to request the item from the second retail entity while the user remains at the location of the first retail entity.

35 U.S.C. § 102(e)

As discussed above with respect to Claim 1, Kinjo is directed to an order processing apparatus for ordering an object featured in a displayed image, e.g., on a television screen. The object is identified by comparing a photograph of the displayed image with an original image as broadcast and the order for the object is processed. Kinjo also permits customers taking a picture of an article on display at a store to order the article from the store.

In contrast to Kinjo as discussed above, Claim 30 is directed to an integrated portable apparatus that a user may use at a location of a first retail entity to communicate an image relating to a selected item to a second retail entity and obtain item information for the selected item. As with Claim 1, the second retail entity is different than the first retail entity. Further, the item information enables the user to request the item from the second retail entity while remaining at the location of the first retail entity. A portable apparatus configured as claimed in Claim 30 is not taught or suggested by Kinjo or any of the other references cited in the Office Action. To the extent Kinjo describes a portable apparatus that is used to photograph an object displayed at a store, Kinjo describes the order processing apparatus as identifying the store and communicating with the store's computer server to process the order at the store. Kinjo does not suggest "outputting item information for the selected item as obtained from a second retail entity that is different than the first retail entity" nor does Kinjo suggest "outputting on the output device the item information obtained from the second retail entity, wherein the output device communicates the item information to a user while the user remains at the location of the first retail entity, and wherein the item information enables the user to request the item from the second retail entity while the user remains at the location of the first retail entity." Accordingly, Kinjo does not anticipate Claim 30 of the present application.

35 U.S.C. §112, Second Paragraph

As to the rejection of Claim 30 under 35 U.S.C. 112, second paragraph, applicant has amended line 2 of the claim to substitute "a location" for the previous reference to "the location", which corrects the issue regarding antecedent basis.

Finally, as to the objection to Claim 30 as allegedly including two preambles, applicant respectfully traverses the objection. Claim 30 does not have two preambles. To the extent the Examiner interpreted a second colon in the claim as signaling a second preamble, applicant has amended Claim 30 to remove the second colon.

Claims 31-35 are also allowable for their dependence on allowable Claim 30 and for the additional subject matter they recite. Claims 30-35 should be allowed.

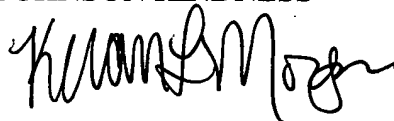
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CONCLUSION

Applicant respectfully requests reconsideration and allowance of Claims 1-35 for the reasons discussed above. Should the Office identify any remaining issues needing resolution prior to allowance of the application, telephone contact with the undersigned counsel is encouraged.

Respectfully submitted,

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